IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 322 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MAHENDRAKUMAR RAMKRISHNA BAROT

Versus

STATE OF GUJARAT

Appearance:

None present for Petitioner

MR SAMIR J DAVE APP for Respondent No. 1

MR NIGAM R SHUKLA for Respondent No. 2, 3, 4, 5

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/04/2001

ORAL JUDGEMENT

#. Heard learned counsel for the parties and perused the Special Criminal Application. The petitioner filed criminal complaint being C.R. No.I 384/98 for the offences under Section 380 and 114 of the IPC against the respondent Nos. 2 to 5. The respondents No. 2 to 5 are relatives to the petitioner. The respondent No.2 is uncle-in-law, the respondent No.3 is father in law, respondent No.4 is uncle-in-law and respondent No.5 is mother-in-law. It is the grievance of the petitioner that the wife of the petitioner has expired on 24.10.98. It is the say of the petitioner that as the wife of the petitioner is pregnant the mother-in-law of the petitioner was residing along with the petitioner for last 10 to 12 days prior to the death of his wife. On completion of the death ceremony of his wife when he gone to his parent's house he came to know that his father-in-law and mother-in-law have taken away clothes, utensils, light-fan etc. After making investigation in this complaint the police submitted `C' summary report and that report has been accepted by the Metropolitan Magistrate Court. That order has been taken up by the petitioner in the revision and the revision application came to be rejected by the Additional City Sessions Judge (Court No.12) at Ahmedabad vide his order dated 14.3.2000. Hence present Special Criminal Application, under Article 227 of the Constitution of India.

#. Though this petition has been titled under Article 226 of the Constitution of India, but in the facts of the case this petition, in substance, is under Article 227 of the Constitution of India. I do not find any illegality whatsoever in the orders passed by the courts below which calls for interference of this court under Article 227 of the Constitution of India. Leaving apart the question whether the criminal complaint made by the petitioner is correct or not still if it is taken to be correct it is a simple civil dispute for which the petitioner should not have unnecessarily dragged those persons in the criminal litigation. This is nothing but only an attempt to abuse the criminal machinery of the State by the petitioner. These are the disputes between close relations and are of civil nature. It is always better, advisable and in the interest of the parties also to find out ways for settlement of their disputes rather to unnecessarily burden the courts. In the case of Laxmikant Revachand Bhojwani Vs. Pradipsingh Mohansingh Pardesi reported in 1995 (6) SCC 576 their Lordships of Hon'ble Supreme Court held that "the High Courts are not justified in extending its jurisdiction under Article 227 of the Constitution of

India in every case". The court held that High Court under Article 227 of the Constitution of India cannot assume unlimited prerogative to correct all species of hardships or wrong decisions. It must be restricted to cases of grave dereliction of duty or flagrant abuse of fundamental principles of law or justice where grave injustice will be done unless the High Courts interferes. In the case in hand if this court does not interfere under Article 226 of the Constitution of India no injustice what to say a grave injustice would be done to the petitioner. It is a case of dispute of civil nature and what the petitioner stated is true it is always open to him to take appropriate civil remedy available for the recovery of property alleged to have been taken by the private respondent.

#. This petition is wholly misconceived and misplaced and the same is dismissed. Rule is discharged. Interim relief, if any, granted stands vacated. In the facts of the case no order as to costs.

(S.K.Keshote, J.)
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